

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**Robert Murray, a/k/a Leviticus Bofnet
Lucfer,**

Plaintiff,

-against-

City of New York, et al.,

Defendants.

| |
|--------------------------------------|
| USDC SDNY |
| DOCUMENT |
| ELECTRONICALLY FILED |
| DOC #: _____ |
| DATE FILED: <u>08/06/2024</u> |

1:24-cv-03758 (JGLC) (SDA)

ORDER

STEWART D. AARON, United States Magistrate Judge:

The Court is in receipt of the status report filed by Defendant City of New York's ("City"). (8/5/24 Status Report, ECF No. 15.) Therein, the City supplied the identities of one Jane Doe correction officers and the shield number of Officer William Pratt in accordance with the Court's prior Orders imposing an obligation upon the City to supply such information in accordance with *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997) (the "Valentin Orders").

(8/5/24 Status Report at 2; *see also* 6/5/24 Order of Service, ECF No. 7, at 2; 7/10/24 Order, ECF No. 12, at 2.) Based on the foregoing, the Clerk of Court is respectfully directed to update the ECF docket to replace "C.O. Jane Doe 5" with "C.O. Amy Fairfax, *Shield No. 19136*," and add "*Shield No. 11969*" underneath "C.O. Pratt."

With respect to waiver of service in accordance with Rule 4(d) of the Federal Rules of Civil Procedure, in the Court's 7/10/2024 Order it addressed that certain Defendants—the City, Captain Banks, Dept. Hamuton, and the John and Jane Does—had not yet waived service in accordance with its prior Order. (7/10/24 Order at 2; 6/5/24 Order of Service at 2.) Since that Order, the City has waived service. (Def. City's Waiver of Service (Executed), ECF No. 13.) In the

status report, the City raised that it is attempting to contact Captain Banks and Dept. Hamuton to obtain their consent to waive service. (8/5/24 Status Report at 2.) In addition to seeking the consent of Captain Banks and Dept. Hamuton,¹ the City is ORDERED to seek a waiver of service from Officer Amy Fairfax and Officer Pratt. No later than Friday, August 23, 2024, the City shall file another status letter apprising the Court on the status of seeking waivers of service as requested herein.

Now that the City has supplied information in accordance with the *Valentin* Orders, per the Court's 6/5/24 Order of Service, Plaintiff shall have 30 days until Thursday, September 5, 2024, to file an Amended Complaint, which shall include the individuals supplied by Defendants. (6/5/24 Order of Service at 3.) As a reminder, the Amended Complaint will replace, not supplement, the original Complaint. The Court has attached another amended complaint form that Plaintiff should complete.

For avoidance of doubt, in the interest of judicial efficiency and given the deadlines previously included in the Order of Service, the Court continues to adjourn the City's and Waived Defendants'² deadline to Answer or otherwise respond to the Complaint *sine die*.

SO ORDERED.

DATED: New York, New York
 August 6, 2024



STEWART D. AARON
United States Magistrate Judge

¹ The City shall also supply the full names and shield numbers for Captain Banks and Dept. Hamuton, as it appears that those have not yet been added to the ECF docket.

² (See 7/10/24 Order at 2 (supplying the defined term for "Waived Defendants" as to which Defendants this currently captures).)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

**AMENDED
COMPLAINT**

under the Civil Rights Act,
42 U.S.C. § 1983

Jury Trial: Yes No
(check one)

Civ. ()

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name _____
ID# _____
Current Institution _____
Address _____

B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name _____ Shield # _____
Where Currently Employed _____
Address _____

Defendant No. 2 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Who did what?

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

B. Where in the institution did the events giving rise to your claim(s) occur?

C. What date and approximate time did the events giving rise to your claim(s) occur?

D. Facts: _____

What happened to you?

Was anyone else involved?

**Who else
saw what
happened?**

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ____ No ____ Do Not Know ____

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ____ No ____ Do Not Know ____

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ____ No ____

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ____ No ____

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

1. Which claim(s) in this complaint did you grieve?

2. What was the result, if any?

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). _____

VI. Previous lawsuits:

On these claims

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No ____

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____
6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On other claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ____

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____
4. Name of Judge assigned to your case _____
5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this ____ day of _____, 20 ____.

Signature of Plaintiff _____

Inmate Number _____

Institution Address _____

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this ____ day of _____, 20 ___, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____